

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the San Francisco Airport's refusal to comply with California Public Utilities Code section 99152 and 164-B and order to show cause why the Airport should not be ordered to complete a system safety program plan prior to commencement of the Airport's operations of its AirTrain transportation system.

Investigation 02-07-014  
(Filed July 17, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUIRING BRIEFS ON JULY 25, 2002**

The Commission on July 17, 2002, instituted this investigation and order to show cause why San Francisco International Airport (SFO) should not be ordered to complete a system safety program under Commission auspices prior to the start of operations of SFO's AirTrain passenger transportation system.

A hearing has been set for 10:00 a.m., Monday, July 29, 2002, at the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, for SFO, the City and County of San Francisco, the Airport Commission, the Airport Director, AirTrain's consultants, and any other interested party to present evidence and/or argument on the order to show cause.

This ruling requires SFO and the Rail Crossing Engineering Section staff of the Railroad Safety and Carriers Division (Staff) to file and serve briefs addressing the issues in this proceeding on or before July 25, 2002. Parties are asked to electronically serve their briefs upon those who request such service,

including Administrative Law Judge Walker at [gew@cpuc.ca.gov](mailto:gew@cpuc.ca.gov). Parties other than SFO and Staff may also file briefs on or before July 25, 2002.

In its brief, SFO is asked to address the following questions, among others:

- When does SFO contemplate the start of its AirTrain service?
- Are there any material issues of disputed facts between SFO and Staff? If so, what are they?
- Because of the imminent launch of AirTrain service, would SFO consider completing a system safety program plan under Commission auspices without waiving its jurisdictional argument, which then would be considered in another pending proceeding, Rulemaking (R.) 02-01-009?<sup>1</sup>
- Does SFO contend that the reference to “any public transit guideway” in Pub. Util. Code § 99152 applies only to transportation on a farepaying basis?<sup>2</sup> If so, is there support for this position in the legislative history or case law involving Section 99152?
- Does SFO contend that the definition of “fixed transit guideway” in the Commission’s General Order (GO) 143-B is inapplicable to the AirTrain system? On what grounds?

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<sup>1</sup> Order Instituting Rulemaking into the issues of safety certification for rail transit agencies and other public transit guideways. In a filed statement prior to Prehearing Conference in R.02-01-009 on July 9, 2002, SFO argued that its AirTrain system is not subject to the jurisdiction of the Commission, and it asked that the jurisdictional issue be addressed in hearing in the rulemaking proceeding.

<sup>2</sup> In its Prehearing Conference Statement in R.02-01-009, SFO contends that provisions of the Code applicable to municipal transit districts define the term “transit” as applying to transportation of passengers and their incidental baggage “not on an individual passenger farepaying basis.” (*See, e.g.*, Pub. Util. Code §§ 40005, 70005, 90005, 95005, and 98005.)

- Does SFO contend that no state agency has jurisdiction to develop an oversight safety program for the operation of AirTrain?
- What state agencies, if any, regulate services similar to that of AirTrain at other airports, including but not limited to Dallas-Fort Worth Airport in Texas?

Staff in its brief is directed to address the following questions, among others:

- Because of the imminent launch of AirTrain service, would Staff consider completing a system safety program plan under Commission auspices while SFO retains its jurisdictional argument, to be decided in another pending proceeding, Rulemaking (R.) 02-01-009?
- Are there any material issues of disputed fact between SFO and Staff? If so, what are they?
- Is there legislative history to support the position of Staff that the AirTrain system is subject to Pub. Util. Code § 99152? Is there case law supporting this position?
- Does Staff contend that the AirTrain system is governed by GO 164-B? If so, is there legislative history or case law supporting this position?
- SFO maintains that Staff has agreed that GO 127 does not govern the AirTrain system. What is the position of Staff, and on what grounds does it take that position?
- Does Staff maintain that the AirTrain system is governed by GO 143-B? On what grounds does it take that position?
- If the Commission does not now approve safety practices for the SFO bus shuttle system, upon what basis does Staff argue that the Commission should approve safety practices for the

AirTrain system that will replace the shuttle system? Is there legislative history or case law to support this position?

Both SFO and Staff are asked in their briefs to propose what further proceedings, if any, they recommend before issuance of a Commission decision in this proceeding.

**IT IS RULED** that that San Francisco International Airport and Staff are directed to file and serve briefs addressing the issues in this proceeding, including but not limited to the questions set forth in the text of this ruling, on or before Thursday, July 25, 2002.

Dated July 17, 2002, at San Francisco, California.

/s/ GLEN WALKER

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Glen Walker  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Briefs On July 25, 2002 on all parties of record in this proceeding or their attorneys of record.

Dated July 17, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.